

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

NICHOLAS BERGERON and NICK  
QUATTROCIOCCHI, on behalf of themselves and  
on behalf of all others similarly situated,

Plaintiffs,

v.

ROCHESTER INSTITUTE OF TECHNOLOGY,

Defendant.

Case No. 6:20-cv-06283

**DECLARATION OF MILAGROS  
CONCEPCION IN OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

I, MILAGROS CONCEPCION, declare:

1. I am the Controller for Rochester Institute of Technology ("RIT") in Henrietta, New York. In my capacity as Controller, I have responsibility for RIT's financial reporting, general accounting, property accounting, payroll and accounts payable, procurement, treasury operations/cash management, endowment, gift accounting, debt management, planned giving administration, student financial services, sponsored programs post-award administration, tax reporting and compliance, travel administration, accounting and financial reporting for global programs, financial management and business services in six of RIT's nine colleges, and Student Auxiliary Services.

2. I am over the age of 18 and, if called to testify, would testify competently about the facts set forth herein.

3. The statements in this declaration are made upon my personal knowledge or review of business records created in the ordinary course of RIT's business, and in the control, possession, or custody of RIT.

### **RIT's Program Offerings**

4. RIT is a private not-for-profit educational institution. It offers 79 Bachelor's degree programs, 69 Master's degree programs, 13 Ph.D. programs, and 63 accelerated dual-degree programs across eleven schools.

5. Nine of RIT's schools offer undergraduate programs: College of Art and Design; Saunders College of Business; Golisano College of Computing and Information Sciences; Kate Gleason College of Engineering; College of Engineering Technology; College of Health Sciences and Technology; College of Liberal Arts; College of Science; and the National Technical Institute for the Deaf ("NTID"). In addition, undergraduate programs are offered in the School of Individualized Study ("SOIS").

6. RIT's graduate programs are also offered in each of the nine schools and SOIS as referenced in Paragraph 5 above. In addition, graduate programs are offered through the Golisano Institute for Sustainability.

7. Within each school, a variety of degree programs are offered at different degree levels. Attached hereto as **Exhibit 1** are true and correct copies of excerpts from RIT's 2019-2020 undergraduate and graduate bulletins showing which degrees are offered in what subject areas, and in which RIT school.

8. Students enrolled in RIT's campus-based programs in Henrietta, New York were eligible to and did take online classes prior to RIT's transition to fully remote learning in March 2020. During the Spring 2020 semester, 128 online courses were made available to undergraduate students and 77 online courses were made available to graduate students. Approximately 21.5% of campus-based students enrolled in at least one online course during the semester.

### **RIT's Spring 2020 Enrollment**

9. During the spring 2020 semester, RIT enrolled 11,994 undergraduate students and 2,715 graduate at its Henrietta, New York campus, not including NTID students. Of that population, 930 undergraduate and 101 graduate students were enrolled in Co-ops, 160 undergraduate and 196 graduate students were enrolled but took no credit hours, and 59 undergraduate students were enrolled in study abroad programs. 10,124 undergraduate students were enrolled full-time<sup>1</sup> and 721 undergraduate students were enrolled part-time<sup>2</sup>. 1,751 graduate students were enrolled full-time and 667 graduate students were enrolled part-time.

10. Additionally, 1,045 undergraduate students were enrolled at the NTID and 84 graduate students were enrolled at NTID. 859 NTID undergraduate students were enrolled in baccalaureate programs at RIT (i.e. degree-earning programs) and sub-baccalaureate programs at NTID.

### **RIT's Student Agreements**

11. For the 2019-2020 academic year, RIT did not mandate that every student execute a Student Financial Responsibility Agreement ("SFRA"). Approximately 80% of undergraduate and graduate students(including NTID students) executed an SFRA.

### **RIT's Tuition and Fees**

12. RIT charges different tuition rates and fees to students depending on their degree level , year of admission and credit load. Attached as **Exhibit 2** is a true and correct copy of RIT's published tuition and fee rates for undergraduate students for the 2019-2020 academic year. Attached as **Exhibit 3** is a true and correct copy of RIT's published tuition and fee rates for

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<sup>1</sup> Meaning the student enrolled in at least 12 credit hours.

<sup>2</sup> Meaning the student enrolled in no more than 11 credit hours.

graduate students for the 2019-2020 academic year.<sup>3</sup> Students who participated in Co-ops only during the Spring 2020 Semester received credits for their Co-ops but were not charged any tuition or fees.

13. In addition, a limited number of classes had associated class-specific fees. For example, every RIT undergraduate student seeking a Bachelor's degree is required to take two courses satisfying the Wellness Education Requirement. Some of the Wellness Education classes had related Wellness Education Fees for equipment or space rental.

14. RIT provides a \$105 credit to every undergraduate student for each of the two required Wellness Education classes to cover, at least in part, any Wellness Education Fees they may be charged while enrolled. If a student takes Wellness Education classes that include Wellness Education Fees exceeding \$105 in total, they are responsible for paying any amount in excess of the \$105 credit.

15. Tuition rates and fees for NTID students were also different depending on the student's degree program, credit load, and whether the student was a United States resident or an international student. NTID students who were United States residents were charged significantly lower tuition and fee rates than non-NTID students because the NTID is heavily subsidized by federal funds. For the Spring 2020 Semester, NTID student tuition and fees were charged at the following rates:

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<sup>3</sup> Exhibits 3 and 4 do not include information for tuition and fees charged to NTID students, which are discussed below.

	<b>Domestic Students</b>	<b>International Students</b>
<b>Undergraduate Students</b>		
<b>Full-Time Tuition (12-18 credit hours)</b>	\$8,581	\$17,162
<b>Rate per Additional Credit Over 18</b>	\$500 per credit hour	\$1,000 per credit hour
<b>Part Time Tuition (under 12 credit hours)</b>	\$715 per credit hour	\$1,430 per credit hour
<b>Student Activities Fee (Full Time Students)</b>	\$148	\$148
<b>Student Activities Fee (Part Time Students)</b>	\$74	\$74
<b>Student Health Services Fee (Full Time Students Only)</b>	\$175	\$175
<b>Graduate Students</b>		
<b>Full-Time Tuition (12-18 credit hours)</b>	\$10,017	\$20,034
<b>Rate per Additional Credit Over 18</b>	\$626 per credit hour	\$1,252 per credit hour
<b>Part Time Tuition (under 12 credit hours)</b>	\$835 per credit hour	\$1,670 per credit hour
<b>Student Activities Fee (Full Time Students Only)</b>	\$148	\$148
<b>Student Health Services Fee (Full Time Students Only)</b>	\$175	\$175

### **Financial Aid Awarded to RIT Campus-Based Students**

16. During the 2019-2020 academic year, 99% of RIT's full-time, first-time degree/certificate-seeking undergraduate students received financial aid. 98% received some form of grants or scholarships, with 95% receiving institutional aid.

17. In total RIT awarded \$187,619,289 in institutional aid to its undergraduate population, averaging \$14,093 per undergraduate student for the academic year.

18. Students enrolled at RIT receive financial aid in many forms including but not limited to scholarships, grants, federal and private loans, gifts from family and friends, etc. Some financial aid must be applied for specific purposes. For example, a student may receive

institutional aid from RIT which can be applied to any charges against a student's account but also receive a private scholarship that, by the scholarship rules, must be applied only to housing or meals. When RIT receives funding for each student's account, it reviews any instructions or specifications related to that funding and applies it to the student account accordingly.

19. In total RIT awarded \$29,252,391 in institutional aid to its graduate population, averaging \$9,946 per graduate student for the academic year.

#### **The Distinct RIT Online Program**

20. In addition to RIT's campus-based programs, RIT operates RIT Online, a fully online education program. RIT Online is primarily intended for part-time or non-traditional students seeking the flexibility of a fully remote education. There are many and significant differences between the programs offered to RIT's campus-based students and RIT Online.

21. First, RIT's campus-based programs are intended for traditional, full-time students – typically pursuing their first degree – while RIT Online is intended for professionals or non-traditional students – many of whom are pursuing an advanced or supplemental degree, or seeking professional certification.

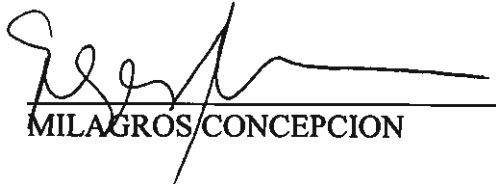
22. Because of the different target student populations, RIT's campus-based programs offer dozens of undergraduate degree programs. By contrast, RIT Online offers a single undergraduate degree program in Business Administration. Even at the graduate level, RIT Online's program offerings are much more limited – RIT Online offered only six degree programs during the Spring 2020 semester (as opposed to the hundreds offered through RIT's campus-based programs across degree levels).

23. Second, RIT Online students have access to a limited range of support services. For example, RIT Online students do not have access to RIT's student resource center, administrative support, extra-curricular programs, or health and wellness services.

24. Third, and critically, RIT Online students do not qualify for institutional financial aid. During the 2019-2020 academic year, 99% of RIT's full-time, first-time degree/certificate-seeking undergraduate students received financial aid. 98% received some form of grants or scholarships, with 95% receiving institutional aid. If those students were enrolled in RIT Online, they would not have received or qualified for any institutional aid.

25. RIT Online's published tuition and fee rates are discounted when compared to the tuition and fee rates for campus-based students largely because RIT Online students do not get the benefit of institutional aid. In other words, after deducting the institutional aid campus-based students receive, the tuition and fee charges as between campus-based students and RIT Online students is comparable. (Of course, students also receive the benefit of non-institutional aid such as federal grants and loans, which further reduces the out-of-pocket cost for students.)

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct. Executed this 28th day of October 2022, in Manhasset New York.

  
MILAGROS CONCEPCION